



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF REGIONAL OFFICES
SYRACUSE REGIONAL OFFICE

February 28, 2023

Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse NY 13261-7336

Re: *Gazzola, et al. v. Hochul, et al.*
Index No.: 1:22-cv-1134

Dear Chief Judge Sannes:

Please accept this letter as Defendants' response to Plaintiffs' letter motion dated February 27, 2023, requesting that the Court stay this matter and transfer this case to District Judge Glenn Suddaby. See, ECF No. 49. Both of these requests have been previously denied during the course of this litigation, and Defendants respectfully request that this Court deny them again.

Plaintiffs' counsel emailed the undersigned yesterday afternoon, February 27, 2023, requesting to speak with me as to whether another status update letter should be provided to the Court. In response, I indicated that Defendants' deadline to respond to Plaintiffs' Complaint had been previously set by the Court for February 28, 2023, see ECF No. 48, and that I intended to file a motion to dismiss in the morning. I further stated that a status update at this juncture did not seem necessary, given that the Court had not requested a status update by the parties. At approximately 11:46 p.m. last night, Plaintiffs' counsel filed a letter request to stay the above-entitled matter and transfer it to District Judge Glenn T. Suddaby. (ECF No. 49).

With respect to Plaintiffs' request to stay the above-entitled matter, on December 20, 2022, this Court previously determined that this matter would only be stayed pending Plaintiffs' emergency motion to stay filed in the Second Circuit. (See, ECF No. 45). Defendants were directed to notify the Court of the Second Circuit's ruling on the motion, and this Court directed Defendants to answer Plaintiffs' Complaint thirty days from the date of the ruling. (Id.). The Second Circuit rendered a decision on December 21, 2022, denying Plaintiffs' emergency motion to stay. See, Gazzola v. Hochul, No. 22-3068, 2022 WL 18401354 (2d Cir. Dec. 21, 2022).

On December 23, 2022, Defendants requested an extension to answer Plaintiffs' Complaint (ECF No. 47) and the Court granted the request, extending the deadline to February 28, 2023. (ECF No. 48). Consequently, the Court has already determined that this matter is not to be stayed pending any appeals, and Plaintiffs' request to stay this matter just hours before Defendants were to file their motion to dismiss is wholly without merit.

Furthermore, Plaintiffs' counsel's request that this Court transfer this matter to Judge Suddaby is also meritless. Plaintiffs' counsel previously attempted to have this case assigned directly to Judge Suddaby immediately after the Complaint was filed, see ECF No. 1-5, and he determined that this matter is *not* related to the matters Plaintiffs' counsel claims. Indeed, Judge Suddaby denied direct assignment and directed the Clerk to randomly reassign this matter. (ECF No. 7). Plaintiffs' attempt to transfer this case back to Judge Suddaby at this juncture is suspicious, particularly given that it is being requested after four months of active litigation, hours before Defendants' deadline to answer the complaint and hours after Plaintiffs' counsel was notified that a motion to dismiss would be filed in lieu of an answer.

Defendants respectfully request that this Court deny Plaintiffs' request to stay these proceedings and deny their request to transfer this matter to Judge Suddaby. Defendants still intend to file a motion to dismiss the Complaint today.

Respectfully,

s/ Aimee Cowan
Aimee Cowan, Esq.
Assistant Attorney General

cc: Paloma A. Capanna, Esq., *via CM/ECF*